

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
GAINESVILLE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
-vs- ) Case No. 2:15-CR-28-WCO  
 )  
NIKKI AUTRY, ) December 9, 2015  
 ) Gainesville, Georgia  
Defendant. )  
\_\_\_\_\_ )

TRANSCRIPT OF THE CROSS-EXAMINATION OF DEVON FRY  
BEFORE THE HONORABLE WILLIAM C. O'KELLEY,  
U.S. DISTRICT COURT JUDGE, AND A JURY

APPEARANCES OF COUNSEL:

On behalf of the Government: Brent Gray  
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*Proceedings recorded by mechanical stenography  
and computer-aided transcript produced by*

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1                   (Proceedings held in Gainesville, Georgia, December  
2   9, 2015, in open court, Defendant present.)

3                   THE COURT:   You may cross-examine.

4                   MR. BRICKMAN:   Thank you, Your Honor.

5                                       -   -   -

6                                       CROSS-EXAMINATION

7   BY MR. BRICKMAN:

8   Q.   Ms. Fry, good morning.

9   A.   Good morning.

10   Q.   Nice to see you again.   We actually met a few weeks ago at  
11   the Hall County Jail?

12   A.   Yes.   Yes, sir.

13   Q.   Both myself and Mr. Trost came over, and you were more  
14   than willing to talk to us and answer all the questions that we  
15   had.   You remember?

16   A.   Yes.

17   Q.   And nothing that we have talked about that day has changed  
18   as far as your responses?

19   A.   Right.

20   Q.   When did you get your computer science degree?

21   A.   2005.

22   Q.   And as you have admitted, you have had some run-ins with  
23   the law.   But you have accepted responsibility for what you  
24   have done, right?

25   A.   Yes, sir.

1 Q. Had some hiccups along the way, but that's okay?

2 A. Yes, sir.

3 Q. Back in December of 2013 when there was the flash bang  
4 incident at your house with you and Alton obviously, you  
5 remember that?

6 A. Yes, sir.

7 Q. A lot of innocent folks could have been hurt that day?

8 A. Right.

9 Q. And damage was done to your property?

10 A. Right.

11 Q. Nikki Autry was present that day?

12 A. Yes, sir.

13 Q. And immediately after that when she came into the home the  
14 two of y'all actually had a chance to sit down on the couch?

15 A. Yes.

16 Q. And you had a good conversation, didn't you?

17 A. Uh-huh.

18 Q. You would ask her to see if there's any way to avoid being  
19 arrested?

20 A. Yes, sir.

21 Q. And she told you, I'm going to see if I can work with you,  
22 I'm going to see if I can make that happen, right?

23 A. Yes, sir.

24 Q. But Murray Kogod said an order differently, didn't he?

25 A. Yes, sir.

1 Q. Nikki Autry and you had a nice as nice as could be under  
2 those horrific circumstances conversation?

3 A. Yes. She was very nice to me.

4 Q. And well-mannered?

5 A. Yes.

6 Q. And professional?

7 A. Yes, very professional.

8 Q. Murray Kogod was not, was he?

9 A. No, he wasn't.

10 Q. Larry Wood you have described as sort of like the in-laws  
11 that never go away?

12 A. Yes. That's putting it nicely.

13 Q. But y'all have allowed him to stay?

14 A. Right.

15 Q. And you get along with him fine?

16 A. Right.

17 Q. Now, what was it again, tell me, that Larry Wood -- going  
18 back to the beginning, what was it that he said that he could  
19 try to do to make a deal happen?

20 This is the very beginning when y'all were first asked  
21 what deals could be done. When Nikki says, What can you do,  
22 what was it that Larry said that he could do?

23 A. He said that we could do this guy named Jesse, and Jesse  
24 was at that point selling drugs to Larry.

25 Q. And then when was it that the three of y'all -- and I mean

1     when I say the three of y'all I mean you, your husband and  
2     Larry -- actually spoke to the agents about what he might be  
3     able to do?

4     A.    It was the day that -- well, I never spoke to anyone about  
5     doing Jesse or setting Jesse up. I never spoke. That was  
6     Alton and Larry, I guess, talking to them.

7     Q.    When you say talking to them, who is that?

8     A.    To Nikki and Murray and the members of the NCIS team.

9     Q.    Where was that?

10    A.    That was -- Alton spoke with them first at Philip Hunter's  
11    house when they were being raided. That's when he agreed to do  
12    this deal with Jesse and Larry, I guess.

13    Q.    Okay. When they came back to y'all's house that day, who  
14    was it that spoke to you about what the next steps were going  
15    to be?

16    A.    It was Nikki and Sam -- basically, all of them did it  
17    really. They just said that Alton had made an agreement with  
18    them to work for them and that we were all going.

19    Q.    Okay. And was there anytime when anybody at the house  
20    said you, Devon, cannot go at all?

21    A.    No.

22    Q.    Did Nikki Autry ever try and keep any of the other agents  
23    from listening to y'all's ongoing conversation?

24    A.    No.

25    Q.    Did anybody tell Alton in your presence, Alton Fry, you

1 cannot go on any deal today?

2 A. No.

3 Q. Did anybody tell Larry Wood --

4 A. No.

5 Q. Larry -- hold on. Let me finish the question.

6 A. Sorry.

7 Q. -- Larry, sorry, big guy, you're not a CI, you can't go  
8 with us?

9 A. No, sir.

10 Q. Obviously, y'all had some plans about who you thought you  
11 could and couldn't do a deal with?

12 A. Right.

13 Q. Right?

14 A. Yes, sir.

15 Q. You would know that more than they would, right? When I  
16 say they, the agents?

17 A. Yes, sir.

18 Q. Some folks you know you would have a better chance of  
19 making a deal with?

20 A. Yes, sir.

21 Q. Some are more harder than others?

22 A. Uh-huh.

23 Q. Some may question who's there and how many people there  
24 more than others?

25 A. Right.

1 Q. But y'all shared what you thought you might be able to  
2 make happen?

3 A. Yes, sir.

4 Q. And no one at any time told y'all, I'm sorry, that's not  
5 the way the game is played, only one person can go and only one  
6 person goes, no one else can?

7 A. Correct.

8 Q. No one ever suggested that to you, did they?

9 A. No.

10 Q. Now, it's my understanding that the pill deal that was  
11 done later that day actually did happen, right?

12 A. Yes.

13 Q. And Alton was the one who went into the house to get the  
14 pills?

15 A. Yes.

16 Q. Did anybody ever tell you that if you go, Devon, you can't  
17 speak?

18 A. No.

19 Q. Are there situations -- and I'm going to -- in your former  
20 life, okay -- and I'm going to say former life because you are  
21 going to move forward positively, aren't you?

22 A. Yes, sir.

23 Q. In your former life, it is not unusual for more than one  
24 person to be with another when a deal is made, is it?

25 A. No.

1 Q. Okay. They don't always have to have a speaking role,  
2 right?

3 A. Right.

4 Q. But sometimes there's a comfort level?

5 A. Right.

6 Q. So the deal actually happens with the pill incident and  
7 those pills are returned to Ms. Autry, correct?

8 A. Yes.

9 Q. Okay. And Mr. Gray asked you some questions about the  
10 money that was exchanged and how much pills actually cost; and  
11 I believe you testified that two pills don't cost 50 bucks,  
12 right?

13 A. Right.

14 Q. So change was actually returned by Alton?

15 A. Yes.

16 Q. And the change as you remember it was handed to Nikki  
17 Autry?

18 A. Yes.

19 Q. Now, that's a pretty honest thing to do on your husband's  
20 behalf, wasn't it?

21 A. Well, he knew that -- yeah, of course.

22 Q. Well, he had other options, didn't he?

23 A. Yeah, he could have kept it, I guess.

24 Q. He could have said, Man, those are the two most expensive  
25 pills I have ever purchased in my lifetime, couldn't he?



1 A. Right. But he wouldn't have done that.

2 Q. And he could have said, She didn't have any tens or fives  
3 and so she will pay me later? He didn't tell you that?

4 A. No.

5 Q. And he didn't tell Agent Autry that, did he?

6 A. No. He wouldn't have done that.

7 Q. He brought back change?

8 A. Right.

9 Q. Pretty honest, right?

10 A. Right.

11 Q. Credible?

12 A. Yes.

13 Q. When you testified on direct examination in response to  
14 this search that happened before y'all went off to do the deal,  
15 you mentioned that there was a new guy and Sam Beard and that  
16 somebody at some point did that?

17 A. Bill Zigan.

18 Q. So Bill Zigan -- show us again how did he do that?

19 A. He just -- he motioned for Murray to look over.

20 Q. And you saw that?

21 A. Yes.

22 Q. Where was Bill Zigan when he did (indicating)?

23 A. He was standing at the passenger-side door of our truck,  
24 and he was looking in our truck and my purse.

25 Q. Okay. And where was Murray Kogod when Bill Zigan

1 (indicating)?

2 A. He was standing next to his vehicle which was parked in  
3 front of ours.

4 Q. Okay. And what was it again that Murray Kogod did?

5 A. He just -- he went like this (indicating). He went  
6 (indicating), shook his head.

7 Q. Ms. Fry, did you have any doubt in your mind when you saw  
8 Bill Zigan do that and Murray Kogod do that, did you have any  
9 doubt in your mind what that communication meant?

10 A. Absolutely not. I knew they found the drugs, and I knew  
11 he was asking Murray do I say something -- do we do something  
12 about this or do we ignore it.

13 Q. And the response that Murray gave, although it was  
14 nonverbal, in your opinion meant what?

15 A. Ignore it.

16 Q. Mr. Gray asked you some questions about whether recording  
17 devices were used or not. Do you remember those questions?

18 A. Uh-huh.

19 Q. Was there ever a time during that incident that Nikki  
20 Autry told anybody in your presence, guys, girls, gals, there  
21 will be no recording devices?

22 A. No.

23 Q. Okay. Was there ever a time when someone tried to fit you  
24 with a recording device and Nikki said, Hold it, this is not  
25 going to be recorded?

1 A. No.

2 Q. Let's keep it a secret?

3 A. No.

4 Q. Never, right?

5 A. Never.

6 Q. I believe you testified that you explained to Ms. Autry  
7 that this deal would be more believable if what?

8 A. If Alton wasn't the one -- if we all three did not go to  
9 purchase drugs together.

10 Q. Okay. And that was again why?

11 A. Because they were only giving us a \$50 allowance to buy  
12 drugs, and you don't go with two people who sell or do drugs to  
13 buy \$50 worth of drugs.

14 Q. Okay. Now, I believe you testified on direct that you  
15 weren't followed. You were never put in a car with any of the  
16 agents, were you?

17 A. No, sir.

18 Q. Do you know whether -- are you sure no one, any of the  
19 agents followed from behind but not close enough that anyone  
20 would see them?

21 A. I did not notice any agents following us.

22 Q. And they certainly didn't come up to the house?

23 A. Correct.

24 Q. Now, any decision as to whether surveillance was or wasn't  
25 a good idea would not have been something that you would have

1     had a say in?

2     A.    Right.  It was never mentioned or said.

3     Q.    You are not on that committee, are you?

4     A.    No, I was not privy to that.

5     Q.    Mr. Gray on occasion was talking about Wanis.  Do you  
6     recall?

7     A.    Uh-huh.

8     Q.    And then said we will just call him Wanis in some  
9     questions.  Do you remember that?

10    A.    Uh-huh.

11    Q.    You don't have any doubt sitting here today that Larry  
12    Wood purchased methamphetamine from Wanis, do you?

13    A.    No.  I'm assuming it's Wanis.  He was arrested for it and  
14    --

15    Q.    Okay.  And, also, you know based on what you heard is that  
16    Wanis said, Who are those folks, and said, That's Alton and  
17    Devon?

18    A.    Right.

19    Q.    They're cool?

20    A.    Uh-huh.

21    Q.    And Larry was referred to by Unc?

22    A.    Right.

23    Q.    And you sent a text message back to Ms. Autry saying Wanis  
24    knows about Alton and Larry?

25    A.    Right.

1 Q. And wants to do the deal?

2 A. Right.

3 Q. You have not heard anything since the day of that incident  
4 that leads you to believe that Wanis Thonetheva didn't sell  
5 drugs --

6 A. No, I believe it was Wanis who did it.

7 Q. No doubt?

8 A. No doubt.

9 Q. At any time after the deal went down between Wanis  
10 Thonetheva and Larry Wood, Nikki Autry never told you in person  
11 don't tell anybody Larry sold and bought the drugs, did she?

12 A. No, she didn't.

13 Q. We have the text messages; and there aren't messages that  
14 suggest that, are there?

15 A. No.

16 Q. She never called you on the phone and said, Look, this is  
17 between you, me, Larry, Alton, right?

18 A. No, never.

19 Q. And she also never said in any of the texts, If there's  
20 anything that has to do with this sale, tell me in person?

21 A. No, never.

22 Q. You don't know of anything that she tried to suggest to  
23 you to cover up what happened at that scene?

24 A. No, she never suggested anything to cover up anything.

25 Q. You discussed with Mr. Gray your concerns about the folks

1     that were about the house?

2     A.    Right.

3     Q.    Okay.  And for a number of reasons, you had concerns that  
4     night, didn't you?

5     A.    Yes.

6     Q.    One is you had never been to the house?

7     A.    Correct.

8     Q.    You didn't know who those people were that were standing  
9     next to the house?

10    A.    Uh-huh.

11    Q.    You didn't know if they were armed or not?

12    A.    Uh-huh.

13    Q.    They could have been guards?

14    A.    Uh-huh.

15    Q.    You were nervous?

16    A.    Uh-huh.

17    Q.    You were high?

18    A.    Uh-huh.

19    Q.    You were concerned?

20    A.    Uh-huh.

21    Q.    You wanted out of there?

22    A.    Yes.

23    Q.    And Mr. Gray asked you about what you were able to see and  
24    not see when Larry got out of the car and shook hands with  
25    Wanis Thonetheva.  Do you remember those questions?

1 A. Yes, sir.

2 Q. And he said, Well, there's some of it I saw and some of it  
3 I couldn't because our backs were to them?

4 A. Right.

5 Q. And so when Larry got back in the car, one of the first  
6 things he said was, That's pretty slack for \$50 worth?

7 A. Yes.

8 Q. Okay. You understood at that time, did you not, that when  
9 he said that's pretty slack for \$50 that he had just --

10 A. Bought drugs.

11 Q. -- bought dope and it really wasn't worth it?

12 A. Right.

13 Q. He didn't come back to the car and go, Why did we come  
14 over here, just to shake this guy's hand?

15 A. No.

16 Q. He did a deal, didn't he?

17 A. Uh-huh.

18 Q. So you were convinced a deal had just happened?

19 A. Right.

20 Q. Even though your back was to it right there, you know from  
21 again a prior life that when deals are done they are not sent  
22 by Federal Express, right?

23 A. No.

24 Q. Right.

25 It's not I will leave it at the office for you?

1     A.    Uh-huh.

2     Q.    Let me know when you get it.  It's in person most of the  
3     time, right?

4     A.    Uh-huh.

5     Q.    And hand to hand is exactly what it means?

6     A.    Right.

7     Q.    I hand you the drugs, you hand me the money, nice to see  
8     you?

9     A.    Right.  Uh-huh.

10    Q.    That's how business is conducted, right?

11    A.    Yes, sir.

12    Q.    Nikki Autry in the meantime, actually before and after,  
13    was asking you to provide her or to keep her up to date with  
14    details, right?

15    A.    Yes, sir.

16    Q.    Tell me what cars are there?

17    A.    Uh-huh.

18    Q.    What else?

19    A.    How many people do you see?

20    Q.    How many people do you see?

21    A.    Is there any traffic?  And is there any people -- or how  
22    much dope does he have?

23    Q.    That's right.

24    A.    Yeah.

25    Q.    You understood those questions to be coming from a law



1 enforcement officer trying to gather information about what's  
2 going down at the deal?

3 A. Right.

4 Q. Right?

5 A. Yes.

6 Q. She wasn't calling you or texting you and saying, Make  
7 sure no one sees you, did she?

8 A. No.

9 Q. She was gathering information?

10 A. Uh-huh.

11 Q. Right?

12 A. Uh-huh.

13 Q. And you understood that at the time?

14 A. Yes.

15 Q. And you believe that today?

16 A. Yes.

17 Q. And you did provide her with the information?

18 A. Yes.

19 Q. When Larry Wood got back in the car and showed you the  
20 drugs and said that's pretty slack for 50 bucks, I believe you  
21 testified that you and Alton on the way back got into a tiff?

22 A. Yes.

23 Q. The question is am I going to -- I, Alton, is Wanis going  
24 to figure out who we are or something to that effect, right?

25 A. Right.

1 Q. And that worried you too?

2 A. Yeah.

3 Q. And Larry says, Oh, that's Alton and Devon. That ain't  
4 too subtle, is it?

5 A. No, it is not.

6 Q. So y'all continued to have a disagreement all the way back  
7 to The Torch?

8 A. Yes.

9 Q. It sort of continued when you got there? You're still  
10 sort of angry at one another?

11 A. Yeah. I tend to go on and on.

12 Q. Well, you felt that way, didn't you?

13 A. I did.

14 Q. He felt that way?

15 A. Uh-huh.

16 Q. Then Larry got out of the car immediately, didn't he?

17 A. Yes.

18 Q. He was the first and only person to get out of the car,  
19 wasn't he?

20 A. Yes.

21 Q. When I say there, I mean y'all got to The Torch, correct?

22 A. Correct.

23 Q. Larry gets out of the car?

24 A. Uh-huh.

25 Q. And starts talking?

1 A. Uh-huh.

2 Q. He didn't get out of the car and go, Oh, long day, right?

3 A. No. He gets out and starts walking towards Nikki and  
4 hands her the drugs.

5 Q. Nikki then comes over to him, and he starts chatting?

6 A. Uh-huh.

7 Q. And at some point other agents are there too?

8 A. Yes.

9 Q. No one says, Nikki got the conversation, we are going to  
10 Taco Bell, let us know what happened?

11 A. No.

12 Q. When Larry starts talking, people start listening?

13 A. Right.

14 Q. Where was Murray Kogod?

15 A. He was standing right beside Nikki.

16 MR. BRICKMAN: May the witness step down for a  
17 moment, please, sir?

18 THE COURT: All right.

19 BY MR. BRICKMAN:

20 Q. Do you mind stepping down? And if you come over to me and  
21 show me if I am Nikki Autry -- I'm much shorter -- but if you  
22 are Murray Kogod, how close are you to me when Larry Wood is  
23 talking to you?

24 A. This close.

25 Q. So how close do you think you and I are right now?

1 A. Two feet, three feet.

2 Q. Okay. And then if Larry Wood is speaking to us, is he  
3 speaking to us like facing us?

4 A. He would have been standing right here.

5 Q. And about how close are you to me right now?

6 A. Two feet, three feet.

7 Q. Okay. At any time did Murray Kogod go (indicating), walk  
8 away?

9 A. No.

10 Q. Ever?

11 A. No.

12 Q. And at any time did Larry Wood walk away and stop talking  
13 to them?

14 A. No, sir.

15 Q. And while that conversation was going on, you were within  
16 two feet of Larry Wood, you being Larry Wood?

17 A. Okay.

18 Q. And Murray Kogod was about two feet from Nikki Autry?

19 A. He was standing directly beside her.

20 Q. And they were speaking, right?

21 A. Yes.

22 Q. In English?

23 A. Yes.

24 THE COURT: Let her come back to the --

25 MR. BRICKMAN: I am done. Thank you.

1 THE COURT: -- stand.

2 BY MR. BRICKMAN:

3 Q. Was there any question in your mind that Murray Kogod --  
4 I'm not asking you to get inside of his head, say what he was  
5 translating in his head -- that he was close enough to hear  
6 what Larry was saying?

7 A. No, I think he heard what Larry said.

8 Q. And Larry talked a bit, didn't he?

9 A. Yes.

10 Q. Larry had just bought drugs from Wanis Thonetheva, hadn't  
11 he?

12 A. Right.

13 Q. Okay. You had witnessed the drug deal?

14 A. Right.

15 Q. And other agents are talking to y'all too, right?

16 A. Right.

17 Q. Now, during all of those conversations, everyone was  
18 saying pretty much the same thing, weren't they?

19 A. Uh-huh.

20 Q. There was no confusion about who bought those drugs from  
21 Wanis, was there?

22 A. No. Everybody knew that Larry was the one that bought the  
23 drugs.

24 Q. When you say everybody, what do you mean?

25 A. Everyone that was there, the NCIS team were aware that

1 Larry bought the drugs.

2 Q. And when Larry bought the drugs, he came back to The Torch  
3 and he handed the drugs to Nikki Autry?

4 A. To Nikki. Uh-huh.

5 Q. The drugs that he just bought from Wanis Thonetheva at the  
6 residence where y'all went?

7 A. Yes, sir.

8 Q. One moment, Ms. Fry.

9 A. Uh-huh.

10 Q. And Wanis had told Larry he had a lot of dope and he  
11 wanted to help him sell it?

12 A. Right.

13 Q. Now, you did mention something on direct examination about  
14 how meth houses look?

15 A. Right.

16 Q. You can't look at a person -- some people you can --

17 A. Right.

18 Q. -- and know whether they sell or don't sell, can you?  
19 Some people for sure you can, right?

20 A. Right. Right.

21 Q. If I walked up to you outside on Spring Street dressed as  
22 you are today --

23 A. Uh-huh.

24 Q. -- I say good afternoon, you say good afternoon, I  
25 couldn't look at you and tell whether you were a meth seller,

1 would I?

2 A. No.

3 Q. And while some houses are trashed on the outside, that  
4 doesn't mean someone can't sell methamphetamine, does it?

5 A. No. I have a beautiful home, and we sold methamphetamine  
6 at one point.

7 Q. Just to make sure I am clear on this, whether any agents  
8 in the past had conducted surveillance of that house and what  
9 they had seen, that was outside of your knowledge?

10 A. Correct.

11 Q. Right?

12 Okay. So whether or not what information they knew about  
13 Wanis Thonetheva was outside of your knowledge, right?

14 A. Correct.

15 Q. You told the agents when y'all got back there about who  
16 you saw outside and what you thought they were, right?

17 A. Uh-huh.

18 Q. Alton explained that to you, right?

19 A. Uh-huh.

20 Q. And Larry was chatting away?

21 A. Uh-huh.

22 Q. Larry was talking more than y'all, wasn't he?

23 A. Yes.

24 Q. After this tragic incident, you got in touch with Nikki  
25 and said that Larry felt real bad about it?

1 A. Right.

2 Q. That y'all felt it was your fault or something?

3 A. Right. We did. We felt it was our fault.

4 Q. Nikki Autry reassured you, didn't she?

5 A. She did.

6 Q. She told you it's not y'all's fault?

7 A. Uh-huh.

8 Q. She didn't try to throw y'all under the bus, did she?

9 A. No.

10 Q. And, in fact, when you found out that you were going to be  
11 spoken to by the members of the GBI, Georgia Bureau of  
12 Investigation, you actually had spoken to Ms. Autry about the  
13 fact that you were going to have to go over there?

14 A. Right.

15 Q. Remember that?

16 A. Uh-huh.

17 Q. And she said, It's okay, just tell them the truth?

18 A. Uh-huh.

19 MR. BRICKMAN: Thank you very much.

20 (Cross-examination of Devon Fry concluded.)

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23

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT:

NORTHERN DISTRICT OF GEORGIA:

I hereby certify that the foregoing pages, 1 through 24, are a true and correct copy of the proceedings in the case aforesaid.

This the 11th day of February, 2016.

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Susan C. Baker, RMR, CRR  
Official Court Reporter  
United States District Court